

**Title 20--DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS
AND PROFESSIONAL REGISTRATION
Division 500--Property and Casualty
Chapter 7—Title**

EMERGENCY AMENDMENT

20 CSR 500-7.200 Standards For Policy Issuance. The department is removing section (4) and Appendices A, B and C from the rule and amending sections (2) and (3) of this rule.

PURPOSE OF AMENDMENT: This amendment will eliminate the incorporation of forms in the rule and adopt the forms by reference and eliminate a redundant provision.

PURPOSE: This rule implements section 381.071, RSMo (Cum. Supp. 1989) relating to the duties of a title insurance company before writing a title insurance policy.

EMERGENCY STATEMENT: This emergency amendment outlines the duties of a title insurance company before writing a title insurance policy. This emergency amendment is necessary to preserve the public welfare of Missouri citizens by ensuring that the public, title insurers, title agencies and title agencies understand the requirements outlined in Senate Bill 66, Laws 2007. Between July 2007 and the present, the department has met with title agents, most of whom represented small businesses, to discuss how to best implement the new requirements in Senate Bill 66, Laws 2007. The relevant portions of Senate Bill 66 take effect on January 1, 2008, and the industry has expressed to the department that it requires further guidance on how it is expected to comply. As a result, the Missouri Department of Insurance, Financial Institutions and Professional Registration finds an immediate danger to the public welfare and a compelling governmental interest, which requires emergency action. The scope of this emergency amendment is limited to the conditions creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. In developing this emergency rule, representatives of the insurance industry were consulted. The department believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed on January 16, 2008, effective January 28, 2008, and expires July 14, 2008.

(2) Exceptions.

(A) An attorney licensed to practice law in this state is not required to base an examination of title upon a set of records geographically indexed if s/he [is] personally [responsible for the inspection of] **inspected** the best title evidence available.

(B) If a set of records geographically indexed is not in existence in the county where the property subject to examination of title is located, the title insurance policy shall be based upon the best title evidence available.

(C) If evidence for an examination of title cannot be obtained from a set of records geographically indexed at a reasonable charge or within a reasonable period of time, the title insurance policy shall be based upon the best title evidence available.

(D) The best title evidence available is that evidence which a reasonable and prudent person would depend upon in the conduct of his/her own affairs as determined by the circumstances in existence in the county where the subject property is located.

(3) Documentation.

(A) The individual who performed the examination of title on behalf of the title insurer shall verify in a written statement where s/he obtained the evidence used in the examination of title. If the title examiner followed any of the exceptions as stated in section (2) of this regulation, s/he shall state in the written statement, in clear and specific terms, the reasons for following any exception.

(B) The written statement required by subsection (3)(A) of this regulation shall be placed in and made a part of the title insurance company's files or that of its agent or agency for a period of not less than fifteen (15) years after the title insurance policy has been issued.

(C) The written statement required by subsection (3)(A) of this regulation shall *[follow the form as exemplified by Appendix A which follows]* **conform to the Verification of Examination of Title form (Form T-10), or any form that substantially comports with the specified form.**

(D) If a title insurance company, agent or agency performs or causes to perform examinations of titles in the same manner for each and every title insurance policy issued, that company, agent or agency may file, in place of the requirements of subsections (3)(A)-(C) of this rule with the director *[of the Department of Insurance]*, an **Examination Location Affidavit (Form T-11), or any form that substantially comports with the specified form, describing** *[affidavit]* where examinations of titles are conducted and the specific reasons why any exceptions, if any, as stated in section (2) of this regulation are followed, stating the place. A copy of **a completed Form T-11** *[the affidavit]* shall be posted in the office of the agency or agent in a conspicuous place for public view. Any deviation from an examination of title as described by the affidavit shall require compliance with subsections (3)(A)-(C) of this rule. The filing of *[the affidavit]* **Form T-11, or any form that substantially comports with the specified form,** shall be accompanied by a fifty-dollar (\$50) filing fee as mandated by section 374.230[(6)](5), RSMo, *[(Cum. Supp. 1989)]* if made by an insurance company. Otherwise, no filing fee is mandated.

(E) The *[Missouri Department of Insurance]* **director** shall maintain a Missouri title plant registry. Any entities which can be defined as a title plant pursuant to section 381.031(22), *[Revised Statutes of Missouri]* **RSMo, (Cum. Supp. 1989),** shall **annually** file with the *[Missouri Department of Insurance]* **director** a registration statement in a **Title Plant Registration form (Form T-12), or any form that substantially comports with the specified form** *[as exemplified by Appendix C which follows]*. No filing fee is mandated.

(F) The forms referenced in subsections (3)(C)-(3)(E) can be accessed at the department's website at www.insurance.mo.gov or at the department offices.

[(4) Discipline for Violation. The director of the Missouri Department of Insurance may institute disciplinary action for violations of this regulation in accordance with the provisions of section 375.141, RSMo [(1986)] and any other applicable law.]

[APPENDIX A

Verification Of The Examination Of Title

1. Name and residential address of person performing examination of title--

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2. Location of property subject to examination of title--

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3. Date examination completed--

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4. Place where examination conducted--

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5. Was set of records used in examination geographically indexed?

Yes

No

6. If answer in question 4. was no, explain the reasons why.

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7. Title insurance policy number (if issued)--

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The undersigned hereby verifies the information stated herein is true and correct.

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Signature of Examiner

Date

APPENDIX B

Affidavit

Person (or Persons) conducting title searches--

Name

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Address

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Name of title insurance companies for which title searches are conducted--

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Name of title insurance agency or title insurance agent(s) for which title searches are conducted--

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Location of set of records where title searches conducted by each county where title insurance policy is issued--

Is set of records for the title search geographically indexed for each county? How many years for a continuous period of time?

Yes	No	No	No	No	How many years	How many years	How many years	How many years	If
Yes	No	No	No	No	How many years	How many years	How many years	How many years	If

no, state reasons why for each no answer--

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State of Missouri

County of

I, , an individual charged with conducting title searches for the (name of entity conducting the searches), first being duly sworn, do hereby on my oath state that the information contained in the above document relating to title searches is accurate and correct to the best of my knowledge. I, furthermore state on my oath that I have caused an original copy of this document to be filed with the Missouri Department of Insurance and a copy of same to be displayed in the office of (name of entity conducting title search) in a conspicuous place for public view.

(Print name of signature)

Subscribed and sworn to before me this day of, 19. I am commissioned as a notary public within the County of, State of Missouri, and my commission expires on .

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Notary Public

APPENDIX C

Annual Registration of Title Plant

(One registration for each county)

1. Name of plant:

Name of owner:çIncorporated?

Address:

Telephone no.:

County of coverage:

2. Organization of plant.

a. Is the plant geographically indexed?

b. Does the plant index--

1. Judgments

2. Mechanics liens

3. County taxes
 4. Municipal taxes
 5. Public utility easements prior to 45 years
 6. Public utility assessments
 7. Subdivision and condominium assessments
 - c. How many years does your plant cover?
 - d. Does your plant duplicate the records of the Recorder of Deeds? of the Circuit Clerk?
 3. Is the plant open to use by licensed title insurance agents not affiliated with or employed by the plant?
 - a. Physical access to the plant?
 - b. Access by computer modem?
 4. If the answer to 3 is "yes"--
 - a. What is the charge for each use?
 - b. How was this charge determined?
 5. If the answer to 3 is "yes"--
 - a. Is there any time delay between the request and actual admission to the plant?
 - b. Average time delay?
 - Maximum?
 - Minimum?
 - c. Does the time delay vary according to the time of the year?
 6. Does the Recorder of Deeds maintain a geographical index?
 7. Does the County Assessor designate each parcel by a locator or other number?
 8. Do you carry errors and omissions insurance?
 - a. Name of carrier
 - b. Policy limits
 - c. Deductible
 9. How many licensed title insurance agents do you employ?
- This statement was prepared by:
- Name:
- Address:

Date

Signature]

AUTHORITY: Sections 374.045, 381.042, 381.118, RSMo (Supp. 2007). *Emergency Rule Filed January 16, 2008, effective January 28, 2008 and expires July 14, 2008. A proposed rule covering this same material is published in this issue of the **Missouri Register**.*